

SEVENTEENTH DAY.

SENATE CHAMBER,
AUSTIN, January 31, 1874. }

Senate met pursuant to adjournment.
Roll called; quorum present.

Prayer by the chaplain.

Minutes of yesterday read and adopted.

On motion of Senator Ellis, Senator Ireland was excused for four days from next Monday.

On motion of Senator Friend, Senator Ellis was excused for four days from next Monday.

Senator Westfall introduced a petition from citizens of Georgetown in regard to the apportionment and disbursement of the public school fund. Read and referred to Committee on Education.

Senator Hobby presented a petition from citizens of Polk county, "asking for an enlargement of the Lunatic Asylum." Read first time and referred to Committee on State Affairs.

Senator Hobby presented a petition from citizens of Polk county, "asking the postponement of the collections of the tax for 1873, until November 1874." Read first time and referred to Committee on State Affairs.

Senator Westfall, chairman of the Committee on Education, submitted the following report:

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Education, to whom was referred House bill No. 20, entitled "An act repealing an act entitled 'An act to prohibit the sale or giving away of spirituous, vinous, malt and other intoxicating liquors within two miles of certain places therein named,'" passed May 31, A. D. 1873, after examination, instruct me to report the same back with the recommendation that it do pass.

W. H. WESTFALL, Chairman.

Senator Culberson, chairman of Committee on Internal Improvements, submitted the following reports:

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Internal Improvements, to whom was referred Senate bill No. 41, "An act regulating special elections in counties, cities or towns, for the construction of railroads, and other works of internal improvement," have considered the same, and they instruct me to report the bill back and recommend that it do not pass.

CULBERSON, Chairman.

Hon. R. B. Hubbard, President of the Senate:

Your committee on Internal Improvements, to whom was referred Senate bill No. 27, "An act to amend 'An act to incorporate the Orange, Jasper and Shelby Railroad Company, and to aid in the construction of the same,'" having carefully con-

sidered the same, report the accompanying substitute for said bill, and recommend that it do pass.

CULBERSON, Chairman.

Senator Ellis on part of the special committee, appointed to take into consideration the tenure of office of Jacob C. De Gress, Superintendent of Public Instruction, submitted the following report:

Hon. R. B. Hubbard, President of the Senate:

Your special committee, appointed to take into consideration the tenure of office of the Superintendent of Public Instruction, beg leave to report that we have given the subject our attention, and respectfully submit the following as the result of our investigation:

Section two of article nine of the Constitution provides that there shall be a Superintendent of Public Instruction elected by the people, and that he shall hold his office for the term of four years; but under said section it is provided that the first term of said office shall be filled by appointment of the Governor, by and with the advice and consent of the Senate. Said section further provides that in case of vacancy in said office it shall be filled by appointment of the Governor until the next general election.

It is the opinion of your committee that the first term of the office of Superintendent of Public Instruction began at the same date as did the other State officers elected under the Constitution of 1869—that the office being an elective one under the Constitution, and there being but a special provision for the appointment of the first incumbent, that said appointee took said office under the same limitation and restrictions as though he had been elected.

We therefore believe that Jacob C. De Gress, who was commissioned by the Governor as Superintendent of Public Instruction on the eighth day of May, 1871, was so appointed to fill an unexpired term, and that his tenure of office is determined by the spirit and intent of the Election Declaration of said Constitution of 1869; that, therefore, his term of office expired on the second day of December, 1873.

ELLIS,

CAMP,

WOOD,

Committee.

Senator Parker moved to have one hundred copies ordered printed. Lost.

On motion of Senator Dillard, the report of the committee was adopted.

Senator Wood introduced a bill entitled "An act for the relief of the several justices of the peace in the several counties of this State for assessing the taxes for the year A. D. 1873." Read first time and referred to the Committee on Finance.

Senator Flanagan introduced a bill entitled "An act to encourage the importation

of agricultural machinery." Read first time and referred to the Committee on Internal Improvements.

Senator Hobby introduced a bill entitled "An act to amend section eight, of 'An act regulating taxation,'" approved June 3, 1873. Read first time and referred to the Committee on State Affairs.

Senator Westfall offered the following resolution:

Resolved, That the committee clerks shall, whenever necessary (and not otherwise engaged for committees), assist the secretaries, enrolling and engrossing clerks in the discharge of their duties.

Adopted.

Senator Dillard offered the following resolutions:

Resolved, That the secretary of the Senate and his first and second assistant secretaries be allowed each eight dollars per day.

Resolved, That the engrossing and enrolling and calendar clerks, and such committee clerks as the Senate may see fit to employ, be allowed the sum of eight dollars per day.

Resolved, That the pages employed in the Senate be allowed five dollars, and the porters four dollars, per day.

Resolved, That the sergeant-at-arms, and such assistants as the Senate may elect or appoint, be allowed eight dollars per day.

Resolved, That the President of the Senate be required to issue his certificates to the employees of the Senate in accordance with the above rates, and that the Comptroller, upon the presentation of such certificate, shall draw his warrant in favor of the holder of such certificate, for the amount of the same, which shall be paid out of the appropriation passed to defray the mileage and *per diem* of the members of the Fourteenth Legislature.

Senator Friend moved to amend by striking out the word "five," in regard to the pay of pages and insert "four." Adopted.

The resolutions, as thus amended, were then adopted.

Senator Westfall introduced a bill entitled "An act fixing the compensation of members of the Legislature." Read first time and referred to Committee on State Affairs.

(Senator Wood in the chair.)

Senator Swift introduced a bill entitled "An act to incorporate the South-western and Rio Grande Railroad Company." Read first time and referred to Committee on Internal Improvements.

(President in the chair.)

Senator Culberson introduced a bill entitled "An act to repeal 'An act to authorize the county of Marion to fund the debt of said county.'" Read first time and referred to Judiciary Committee.

ORDERS OF THE DAY.

House bill No. 58, "An act validating the authentication and registration of certain instruments of writing," was read first time, and on motion of Senator Wood, was referred to Judiciary Committee.

Senate bill No. 27 1-2, "An act to amend article 2994 of the Code of Criminal Procedure," was read third time and passed.

Senate bill No. 53, "An act to amend article 587 of the Code of Criminal Procedure," was read third time and passed.

Senate bill No. 64, "An act to repeal 'An act to regulate the sale of lands under the decrees of courts,'" approved August 18, 1870; and an act entitled "An act to repeal the third section, and amend the second section of an act entitled 'An act to regulate the sale of land under the decrees of courts,'" approved August 13, 1870, passed May 8, 1871; was read third time and passed.

Senate bill No. 33, entitled "An act to authorize a change of venue in civil cases," was read third time and passed.

Senate bill No. 42, entitled "An act to add certain lands to the school fund," was read third time.

Senator Parker moved to amend as follows:

Strike out the last word in twelfth line and all the thirteenth line, except the last three letters. Lost.

The bill then passed by the following vote:

Yeas—Senators Allison, Ball, Bradshaw, Baker, Camp, Culberson, Davenport, Erath, Hobby, Morris, Moore, Stirman, Swift, Westfall and Wood—15.

Nays—Senators Bradley, Dillard, Ellis, Flanagan, Friend, Ledbetter, Parker, Russell, and Trollinger—9.

Absent, not voting—Senators Dwyer, Ireland and Randle.

Senate bill No. 59, "An act to allow the several county courts of the State to levy and collect taxes in certain cases," was read second time, and on motion of Senator Wood, recommitted to the Judiciary Committee.

Senate bill No. 39, "An act to amend section thirty-six of 'An act to establish and maintain a system of public free schools,'" passed April 30, 1873, was read second time and ordered engrossed.

Senate bill No. 48, "An act to fortify land titles," and accompanying report recommending that the bill do not pass, was read. The report was adopted, and so the bill was lost.

House bill No. 49, "An act to render valid and effectual the acknowledgment, proof and registration of all deeds and written instruments entitled to be recorded which have been acknowledged or proved between August 8, 1870, and May 6, 1871," and accompanying report recommending

that the bill do not pass, was read, report of committee adopted and bill lost.

Senate bill No. 50, "An act making an appropriation to pay judgment in favor of E. M. Smith against the State," was read second time and ordered engrossed.

Senate bill No. 56, "An act to regulate the collection of accounts from another State," etc., was read second time, amendments of the committee concurred in, and ordered engrossed.

House bill No. 17, "An act to compel the sheriffs, ex-sheriffs and the late treasurers of boards of school directors, or those claiming to have been such, or other officers in the several counties of this State, to make a complete and final settlement with county courts of said counties, and fixing penalties for failure to comply therewith," was read second time, report adopted and bill passed to third reading.

House bill No. 57, "An act to provide for the registration of voters in all towns and cities in the State, not otherwise provided for," was read second time and passed to third reading.

Senate bill No. 62, "An act to incorporate the Dallas Herald Printing Company," with accompanying report, that bill do not pass, was read, report of committee adopted, and bill lost.

Senate bill No. 63, "An act to amend article 327 of Code of Criminal Procedure, and to regulate change of venue in criminal cases," with accompanying report, that the bill do not pass, was read, report adopted and bill lost.

Senate bill No. 9, "An act to incorporate the Austin Omnibus Company," and accompanying report that the bill do not pass, was read, report adopted and bill lost.

On motion of Senator Camp, the Senate adjourned to 10 o'clock A. M. Monday.

EIGHTEENTH DAY.

SENATE CHAMBER,
AUSTIN, February 2, 1874. {

Senate met pursuant to adjournment. Roll called; quorum present.

Prayer by the chaplain.

The journal of Saturday was read and adopted.

A message from the House was received announcing that "addresses to his Excellency Governor Coke, have been presented to the House, accompanied by resolutions, which were adopted, asking the removal of Judge M. Priest of the Fourth District, Judge L. W. Cooper of the Third District, and Judge M. W. Wheeler of the Fifth District, and the appointment by the two houses of a special committee of five Representatives

and three Senators to consider and report the proper mode of procedure in said cases." Also, announcing that the House had appointed as said committee Representatives Linn, Smith of Grimes, Kemble, Denman and Rainey. Also, announcing the passage of the following bills: House bill No. 55, an act to suspend the powers of an act entitled, "An act to levy a special tax in the county of Angelina," passed May 23, 1873. House bill No. 60, "An act to authorize the County Court of Rockwall county to collect a tax to build a jail." House bill No. 14, "An act to authorize the County Court of Panola county to levy and collect a special tax for the payment of the indebtedness of said county."

Also, the passage of Senate joint resolution No. 12, "Returning thanks to the President for upholding the right of local self-government in Texas," with amendments by the House as follows: Section one, line eleven, strike out the words "merits and receives the grateful thanks," and insert in lieu thereof the words "is duly appreciated." Also, the passage of Senate concurrent resolution authorizing the consolidation of the Senate and House standing committees on the Treasurer's and Comptroller's offices with the joint special committee raised by the Senate and House to investigate and report upon the state of the books and accounts of said officers.

(Senator Westfall in the chair.)

Senator Ball moved that the President of the Senate be excused for two days. Carried.

(President in the chair.)

Senator Culberson for committee on Constitutional Amendments, submitted the following majority report:

Hon. R. B. Hubbard, President of the Senate:

Your committee on Constitutional Amendments to whom was referred a resolution directing the committee to consider the subject of calling and providing for a convention of the people to frame a new constitution, have considered the same and a majority of the committee instruct me to report the accompanying joint resolution, and recommend its adoption.

CULBERSON, for Committee.

Senator Bradley for the minority of said committee on Constitutional Amendments, submitted the following report:

Hon. R. B. Hubbard, President of the Senate:

A minority of your Committee on Constitutional Amendments, to whom was referred Senate joint resolution, requiring them to consider of, and report as to the propriety of, calling a constitutional convention, beg leave to report that they have had the same under consideration and advisement, and are of the opinion that, although it is desirable to have a new State Constitution as early as practicable, it would be unwise and impolitic, at the present time, to call a